

AMENDED IN ASSEMBLY MARCH 26, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 388

Introduced by Assembly Member Miller

February 23, 2009

An act to amend Section 538e of the Penal Code, relating to firefighting uniforms.

LEGISLATIVE COUNSEL'S DIGEST

AB 388, as amended, Miller. Firefighting uniforms.

Existing law provides that any person, other than an officer or member of a fire department, who willfully wears, exhibits, or uses the authorized uniform of an officer or member of a fire department or a deputy state fire marshal, with the intent of fraudulently impersonating an officer or member of a fire department or the Office of the State Fire Marshal, or of fraudulently inducing the belief that he or she is an officer or member of a fire department or the Office of the State Fire Marshal, is guilty of a misdemeanor.

This bill would require, subject to exceptions, that vendors of firefighting uniforms verify that a person purchasing a uniform identifying a firefighting agency *or department* is an employee *or authorized member* of the agency *or department* identified on the uniform, as specified. The bill would provide that violation of these provisions would be a misdemeanor, punishable by a fine of not more than \$1,000.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 538e of the Penal Code is amended to
2 read:

3 538e. (a) Any person, other than an officer or member of a
4 fire department, who willfully wears, exhibits, or uses the
5 authorized uniform, insignia, emblem, device, label, certificate,
6 card, or writing of an officer or member of a fire department or a
7 deputy state fire marshal, with the intent of fraudulently
8 impersonating an officer or member of a fire department or the
9 Office of the State Fire Marshal, or of fraudulently inducing the
10 belief that he or she is an officer or member of a fire department
11 or the Office of the State Fire Marshal, is guilty of a misdemeanor.

12 (b) (1) Any person, other than the one who by law is given the
13 authority of an officer or member of a fire department, or a deputy
14 state fire marshal, who willfully wears, exhibits, or uses the badge
15 of a fire department or the Office of the State Fire Marshal with
16 the intent of fraudulently impersonating an officer, or member of
17 a fire department, or a deputy state fire marshal, or of fraudulently
18 inducing the belief that he or she is an officer or member of a fire
19 department, or a deputy state fire marshal, is guilty of a
20 misdemeanor punishable by imprisonment in a county jail not to
21 exceed one year, by a fine not to exceed two thousand dollars
22 (\$2,000), or by both that imprisonment and fine.

23 (2) Any person who willfully wears or uses any badge that
24 falsely purports to be authorized for the use of one who by law is
25 given the authority of an officer or member of a fire department,
26 or a deputy state fire marshal, or which so resembles the authorized
27 badge of an officer or member of a fire department, or a deputy
28 state fire marshal as would deceive any ordinary reasonable person
29 into believing that it is authorized for the use of one who by law
30 is given the authority of an officer or member of a fire department

1 or a deputy state fire marshal, for the purpose of fraudulently
2 impersonating an officer or member of a fire department, or a
3 deputy state fire marshal, or of fraudulently inducing the belief
4 that he or she is an officer or member of a fire department, or a
5 deputy state fire marshal, is guilty of a misdemeanor punishable
6 by imprisonment in a county jail not to exceed one year, by a fine
7 not to exceed two thousand dollars (\$2,000), or by both that
8 imprisonment and fine.

9 (c) Any person who willfully wears, exhibits, or uses, or who
10 willfully makes, sells, loans, gives, or transfers to another, any
11 badge, insignia, emblem, device, or any label, certificate, card, or
12 writing, which falsely purports to be authorized for the use of one
13 who by law is given the authority of an officer, or member of a
14 fire department or a deputy state fire marshal, or which so
15 resembles the authorized badge, insignia, emblem, device, label,
16 certificate, card, or writing of an officer or member of a fire
17 department or a deputy state fire marshal as would deceive an
18 ordinary reasonable person into believing that it is authorized for
19 use by an officer or member of a fire department or a deputy state
20 fire marshal, is guilty of a misdemeanor, except that any person
21 who makes or sells any badge under the circumstances described
22 in this subdivision is guilty of a misdemeanor punishable by a fine
23 not to exceed fifteen thousand dollars (\$15,000).

24 (d) Any person who, for the purpose of selling, leasing or
25 otherwise disposing of merchandise, supplies or equipment used
26 in fire prevention or suppression, falsely represents, in any manner
27 whatsoever, to any other person that he or she is a fire marshal,
28 fire inspector or member of a fire department, or that he or she has
29 the approval, endorsement or authorization of any fire marshal,
30 fire inspector or fire department, or member thereof, is guilty of
31 a misdemeanor.

32 (e) (1) Vendors of uniforms shall verify that a person purchasing
33 a uniform identifying a firefighting agency *or department* is an
34 employee ~~of the agency or authorized member of the agency or~~
35 ~~department~~ identified on the uniform. ~~Presentation and examination~~
36 ~~Examination of a valid photo identification card with a picture of~~
37 ~~the person purchasing the uniform and identification, on the~~
38 ~~letterhead of the firefighting agency, of the person buying the~~
39 ~~uniform as an employee of the agency issued by a firefighting~~
40 ~~agency or department that designates the person as an employee~~

1 *or authorized member of the agency or department* identified on
2 the uniform shall be sufficient verification.

3 (2) *If a person purchasing a uniform does not have a valid photo*
4 *identification card issued by a firefighting agency or department,*
5 *the person shall present an official letter of authorization from the*
6 *firefighting agency or department designating that person as an*
7 *employee or authorized member of the agency or department. The*
8 *person shall also present a government issued photo identification*
9 *card bearing the same name as listed in the letter of authorization*
10 *issued by the agency or department.*

11 (2)
12 (3) Any uniform vendor who sells a uniform identifying a
13 firefighting agency; *or department* without verifying that the
14 purchaser is an employee ~~of the agency; or authorized member of~~
15 *the agency or department* is guilty of a misdemeanor, punishable
16 by a fine of not more than one thousand dollars (\$1,000).

17 (3)
18 (4) This subdivision shall not apply if the uniform is to be used
19 solely as a prop for a motion picture, television, video production,
20 or a theatrical event, and prior written permission has been obtained
21 from the identified firefighting agency *or department*.

22 (f) This section shall not apply to either of the following:

23 (1) Use of a badge solely as a prop for a motion picture,
24 television, or video production, or an entertainment or theatrical
25 event.

26 (2) A badge supplied by a recognized employee organization
27 as defined in Section 3501 of the Government Code representing
28 firefighters or a state or international organization to which it is
29 affiliated.

30 SEC. 2. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.